IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15241 of 2004

Between:

M/s. Akshya Electricals,

Door NO.2-2-184/3,

Amberpet, Hyderabad,
rep by its Proprietor-E.Yadagiri,

S/o. Venkatakishtaiah,

aged 64 years,R/o. Hyderabad. ..... **PETITIONER**

AND

1.Vasavi Cooperative Urban Bank Ltd.,

Malakpet, Hyderabad,

rep by its Managing Director
2.Deputy Registrar of

Coop. Societies/ Officer on Special Duty,

Vasavi Coop. Urban Bank Ltd.,
Malakpet, Hyderabad.
3.Sale Officer,

Vasavi Coop. Urban Bank Ltd.,

Malakpet, Hyderabad. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring the action of the respondents in proceeding with the auction of the house property under mortgage bearing Door No. 2-2184/3, situated at Amberpet, Turabnagar, Hyderabad, pursuant to the sale notice dated 7-8-2004 which was published on 19-8-2002 in Eenaadu Telugu daily newspaper to be held on 27-8-2004 as illegal, arbitrary and contrary to law and set aside the same and consequently direct the respondents herein to finalise the accounts and pass such other order or orders as the Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.J.KANAKAIAH

Counsel for the Respondents: MR.S.ASHOK ANAND KUMAR

The Court made the following :

ORDER:

Petitioner who suffered an award for due recovery of the loan amount claims that he had paid a sum of Rs.3,05,000/- on different dates after passing the award and to that extent, the first respondent-Bank issued receipts as well as statement of account up to 30-06-2004. After the first respondent-Bank was taken over by the second respondent, the first respondent bank issued a letter on 4-3-2004 asking the petitioner to settle the due amount under one time settlement scheme mentioning the outstanding balance payable by the petitioner as Rs.7,98,814-75ps. At that time petitioner brought to the notice of the first respondent-Bank that the amounts paid by him have not been given credit. While so, the respondents by the impugned notice, notified the sale of the property of the petitioner, which was mortgaged to the respondent-Bank. Questioning the same, the present writ petition is filed.

Admittedly, the petitioner has a right of appeal either to question the award, or if the amount paid by him after passing the award is not given credit, he can file his claim petition before the sale officer against attachment of the property, which is advertised for sale as contemplated under sub-rule 21 of Rule 52 of A.P.Co-operative Societies Rules, 1964.

Without availing such remedy petitioner filed this writ petition. It is stated that the award is passed ex-parte and copy of the same is not served on the petitioner enabling him to file an appeal. Since the petitioner asserted that after passing award, he deposited a sum of Rs.3,05,000/-, it is for the petitioner to challenge the award by way of appeal.

In view of the same, I do not find any ground to entertain the writ petition and the same is accordingly dismissed. If the petitioner is so advised, he can approach

the Appellate Tribunal or can move the Sale Officer under sub-rule 21 of Rule 52 of the Andhra Pradesh Co-operative Societies Act and Rules, 1964. However, it is needless to mention that if the petitioner files any such claim, the Sale Officer is under obligation to consider the same and pass appropriate orders. No costs.

26-8-2004

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Copy to:

1.The Managing Director
Vasavi Cooperative Urban Bank Ltd.,

Malakpet, Hyderabad.

2.The Deputy Registrar of

Coop. Societies/ Officer on Special Duty,

Vasavi Coop. Urban Bank Ltd.,
Malakpet, Hyderabad.
3.The Sale Officer,

Vasavi Coop. Urban Bank Ltd.,

Malakpet, Hyderabad.

4.Two CD copies.